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## HARNESSING HUMAN RIGHTS TOWARDS A MINE-FREE WORLD:

RESTORING VICTIMS' RIGHTS, PROMOTING  
SUSTAINABLE DEVELOPMENT AND PEACE

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UNIVERSAL RIGHTS GROUP



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View of the Broken Chair in Geneva, A view of "Broken Chair", a wooden sculpture by the Swiss artist Daniel Berset. The sculpture was created in 1997 at the request of Handicap International and symbolizes the fight and opposition against land mines and cluster bombs - UN Photo/Rick Bajornas

*'Landmines distinguish themselves because once they have been sown, once the soldier walks away from the weapon, the landmine cannot tell the difference between a soldier or a civilian—a woman, a child, a grandmother going out to collect firewood to make the family meal. The crux of the problem is that while the use of the weapon might be militarily justifiable during the day of the battle, or even the two weeks of the battle, or maybe even the two months of the battle, once peace is declared the landmine does not recognize that peace. The landmine is eternally prepared to take victims. In common parlance, it is the perfect soldier, the "eternal sentry." The war ends, the landmine goes on killing.'*



-Excerpt from Jody Williams' Nobel Peace Prize speech, 1997



■ ACRONYMS

APM	Anti-personnel mines	ICBL	International Campaign to Ban Landmines
APMBC	Anti-personnel Mine Ban Convention	ICCPR	International Covenant on Civil and Political Rights
AXO	Abandoned Explosive Ordnance	ICESCR	International Covenant on Economic, Social and Cultural Rights
CCM	Convention on Cluster Munitions	IDPs	Internally Displaced Persons
CCW	Convention on Certain Conventional Weapons	IED	Improvised Explosive Devices
CRPD	Convention on the Rights of Persons with Disabilities	ISU	Implementation Support Unit
EECC	Eritrea – Ethiopia Claims Commission	UDHR	Universal Declaration of Human Rights
EORE	Explosive Ordnance Risk Education	UNCC	United Nations Compensation Commission
ERW	Explosive Remnants of War	UNMAS	United Nations Mine Action Service
GICHD	Geneva International Centre for Humanitarian Demining	UNODA	United Nations Office for Disarmament Affairs
IACG-MA	Inter-Agency Coordination Group for Mine Action	UXO	Unexploded Ordnance

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# INTRODUCTION

Once a conflict ends, its enduring impacts go beyond the casualties and destruction caused during hostilities. Often, explosive ordnance is left behind, on occasions for decades, turning former battlefields into deadly minefields. In the words of UN Secretary-General, António Guterres, the presence of such explosive remnants around communities constitutes a 'terrifying legacy' of conflict,<sup>1</sup> directly affecting the post-conflict rebuilding of societies. This includes their ability to restore social and economic activities, given the risk that these explosives may be present in surrounding lands, agricultural fields, paths, forests, infrastructure, and other community-adjacent areas. The presence of landmines and other explosive remnants of war (ERWs) further undermines peacekeeping efforts, as safety cannot be ensured when communities may be surrounded by these devices, thus potentially exacerbating inter- and intra-community tensions in already fragile contexts.

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**Explosive ordnance comes in very different shapes and forms, but they all have in common their capacity to destroy lives and livelihoods.**



Moreover, with conflicts increasingly taking place in urban areas,<sup>2</sup> the deployment and neglect of explosive ordnance has long-term ramifications for the populations of those cities, particularly those that are densely populated, as clearance operations are further complicated by the urban layout. Explosives can remain hidden under the rubble, they can contaminate urban soil and water systems, and they can destroy houses, schools, and hospitals, among other essential infrastructure. Their presence therefore not only endangers the lives of local populations, but it also jeopardises their ability to access key services and rebuild their livelihoods in the long-term, as these are closely interlinked with that urban fabric. In rural settings, the impacts of landmines and explosive remnants of war (ERW) are also devastating for communities' subsistence, as fields may become unusable for agriculture and farming, and livestock may also be killed by landmines.

Explosive ordnance comes in very different shapes and forms, but all have one thing in common: their capacity to destroy lives and livelihoods. The indiscriminate nature of these weapons, which are triggered by the presence, proximity or contact of any person, regardless of their status as a combatant or civilian, results in thousands of civilian deaths and injuries every year, including children. According to the International Campaign to Ban Landmines' Landmine and Cluster Munition Monitor, in 2022, there were 4,710 casualties of anti-personnel landmines and ERW, 85% of which were civilians, including 1,171 children.<sup>3</sup>

Explosive ordnance may consist of anti-personnel and anti-vehicle mines, which can either be activated by contact or on command. Anti-personnel mines include the widely known blast mines, which are detonated when a person steps on them, as well as a range of other landmines that detonate in a variety of ways. These include directional fragmentation mines, which are activated by command or by tripwire and propel

shrapnel in a specific direction; omnidirectional fragmentation mines, which are activated by a tripwire and eject shrapnel at 360 degrees around the point of detonation; or bounding fragmentation mines, which are detonated either by tripwires or direct pressure, and are launched out of the ground into the air before exploding in a 360 degree radius, thereby achieving a drastically more devastating impact on their surroundings.<sup>4</sup> This constitutes a broad, non-exhaustive classification of anti-personnel mines. For the purposes of this report, they are all referred to by the overarching term of 'anti-personnel mines' (APMs) or 'landmines.'

Besides anti-personnel mines, anti-vehicle mines can also have major disruptive impacts for surrounding communities, particularly when left behind after conflict. Even though they are detonated by heavier pressure loads, they also have heavier explosive charges than APMs, and may be laid together with APMs, so that when the APMs is triggered, so too is the anti-vehicle mine. The substantial explosive charge of these mines, intended to destroy large military vehicles and cars, means that their potential effect on civilian objects can be highly destructive.

Explosive remnants of war (ERW) are a third category of explosive ordnance, which does not include mines, but is equally destructive and pernicious for the development of societies post-conflict. ERW encompass both unexploded ordnance (UXO), such as munitions that failed to detonate as intended, and abandoned explosive ordnance (AXO), such as munitions that were not used during the conflict and were left behind by parties. Just like mines, the presence of ERW like artillery shells, bombs, rockets, mortars, grenades, and other types of ammunition nearby communities is both a risk to life and livelihoods. They are often found in areas that were previously declared to be clear and may appear like innocuous debris that detonates unexpectedly.<sup>5</sup>

Increasing recourse to APMs alongside new uses of such weapons demand an urgent response. While APMs were originally used defensively, as a way to prevent enemy combatants from removing anti-tank mines, in recent decades, they have increasingly been used as an offensive weapon and have begun to be deployed against civilian populations, including in internal conflicts.<sup>6</sup> Over time, APMs have been increasingly deployed not only to inflict damage to physical objects, by killing, maiming or destroying, but also for purposes of population control by restricting movement and social and economic activity. In recent years, such uses of landmines, by Government forces in Myanmar and by Russian and Ukrainian forces, as well as by non-State armed groups in Colombia, India, and in the Sahel, have driven a significant rise in casualties, particularly as conflicts fragment and become protracted.<sup>7</sup> Moreover, the increasing recourse to improvised explosive devices (IED) by non-State armed groups creates new regulatory challenges. Such devices, which can be just as destructive as standard devices, are produced outside government control, making it difficult to enforce arms regulation frameworks.

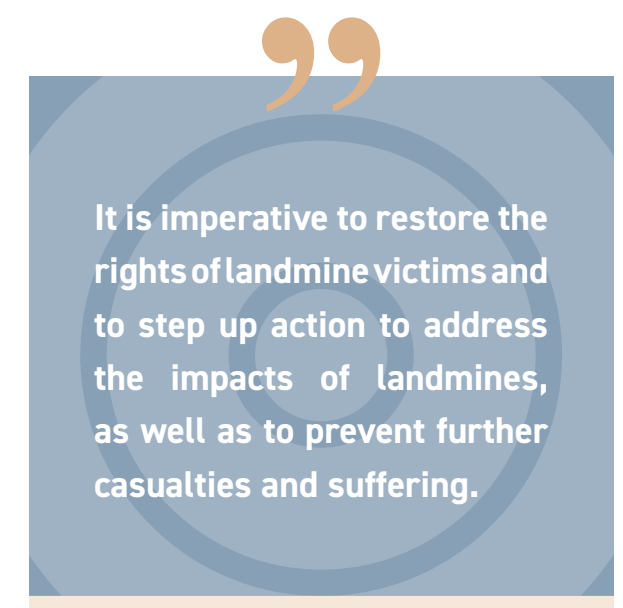
Finally, aside from the deployment of new APMs, lingering contamination poses an enduring threat to populations and the enjoyment of their rights. Even in countries that had previously declared completion of mine clearance, such as Tunisia or Mozambique, threats to individuals and communities persist and require robust public policies to safeguard their rights, including victim assistance and comprehensive risk education and awareness for populations surrounding contaminated areas.

The presence and use of landmines thus poses a continuous threat to numerous human rights in many contexts around the world. Against this backdrop, it is imperative to restore the rights of landmine victims and affected communities and to step up action to

address the impacts of landmines, as well as to prevent further casualties and suffering. This report examines those impacts and proposes avenues to increase the integration of human rights within mine action through enhanced engagement on the part of the UN human rights system. In so doing, its ultimate objective is to contribute towards increasing protection of the human rights of affected communities and landmine victims as a particularly vulnerable group.

In preparing this report, URG held two policy dialogues involving representatives from States, OHCHR, UNODA, UNMAS, as well as civil society organisations specialised in the field of mine action. In addition, interviews were conducted with staff at UNODA, GICHD, and several other civil society organisations. These discussions have informed the contents of this report and the authors would like to express their gratitude to all those who have shared their expertise on the issue.

This report was authored by URG, with Marc Limon, Amalia Ordoñez Vahi, and Tejaswi Reddy serving as the primary authors, and with the contributions of Louis Mason.







Minefield at Ta Phraya in Sa Kaew province - Mary Wareham

# 01

## HUMAN RIGHTS AND LANDMINES: RIGHTS AND DUTIES

A range of internationally protected human rights are critically impacted by the use and long-term legacy of landmines, including the rights to life and livelihood, to physical integrity and security, freedom of movement, to physical and mental health, to food, safe drinking water, employment, and education, to name but a few. Along with the immediate threat to life, physical integrity, and health, mines also negatively affect people's right to a clean, healthy, and sustainable environment. Additionally, mines have differential impacts on certain vulnerable groups such as children, women, persons with disabilities, and persons living in rural areas, amongst others.

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## Relevant human rights obligations

### ■ Right to life and to an adequate standard of living

Landmines are by design intended to cause serious harm and thus, in killing or injuring victims either by direct contact or due to being in proximity, they directly impact the right to life, as enshrined in article 3 of the Universal Declaration of Human Rights (UDHR, 'everyone has the right to life, liberty and security of person'), and article 6 of the International Covenant on Civil and Political Rights (ICCPR, 'Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.').

The right to life is also embedded in other relevant instruments, including the Convention on the Rights of the Child (CRC, whose article 6 recognises every child's inherent right to life, and States' obligation to ensure the survival and development of children), the Convention on the Rights of Persons with Disabilities (CRPD, article 11 provides for the inherent right to life of every human being and States' obligation to ensure the enjoyment of such right by persons with disabilities).

While landmines pose a threat to the right to life during conflicts as well as in peacetime, the right to life is also protected during conflict.<sup>8</sup> In these contexts, landmines are fundamentally incompatible with the requirements under international humanitarian law to protect non-combatants from harm and the principles of necessity, proportionality, discrimination, distinction and humanity,<sup>9</sup> which entail, among others, the requirement of military necessity for any deprivation of life, the prohibition on the use of weapons that cause superfluous injury, unnecessary suffering or harm that is disproportionate to military utility,<sup>10</sup> the distinction between civilian and military targets,<sup>11</sup> and the minimisation of harm to civilians.<sup>12</sup> None of these principles are met in the case of landmines, as civilians bear the heaviest brunt of their use, particularly as

they may remain in the ground for decades after the conflict has ended.

Furthermore, the Human Rights Committee's observation that the right to life 'concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity,'<sup>13</sup> means that no person or entity is entitled to take another person's life, and that States have the obligation to protect the lives of anyone under their jurisdiction. This obligation extends to the adoption of all relevant measures to secure the enjoyment of the right to life and to refrain from violating or permitting violations thereof. In the context of landmines, this translates into the obligation of States to conduct mine clearance operations, but also to provide risk education to ensure that people are aware of the risks that the presence of landmines around them may pose.

In addition to causing direct physical harm, landmines also indirectly impact the right to an adequate standard of living, as recognised in article 25 of the UDHR (which includes 'the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control'); article 28.1 of the CRPD (which encompasses the right to 'adequate food, clothing and housing, and to the continuous improvement of living conditions') and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides for the right to an adequate standard of living and to the 'continuous improvement of living conditions.'

### ■ Right to health

The right to an adequate standard of living entails two aspects: one, private requirements, such as food, adequate housing, and clothing; and two, community requirements, which refer to access to essential services, such as safe drinking water and sanitation, health and social security services, and educational and cultural facilities.<sup>14</sup> Thus, the realisation of this right is dependent, in turn, on the realisation of other human rights related to it, including, the rights to adequate food, adequate housing, and safe and clean drinking water and sanitation.<sup>15</sup> Persons injured by landmines may face barriers in accessing the necessary conditions to lead a dignified life, as lifelong disabilities or other physical or mental health impairments may hinder their access to employment, education, and other essential services. For the wider community, the presence of landmines may impact on their living conditions by preventing access to food, water and sanitation, all of which directly undermines their rights to an adequate standard of living.

Alongside the right to life, the right to the highest attainable standard of physical and mental health is also immediately and severely impacted by landmines. This right is recognised in article 25 of the UDHR ('everyone has the right to a standard of living adequate for the health and wellbeing of themselves and of their families'), article 12 of the ICESCR ('everyone has the right to the enjoyment of the highest attainable standard of physical and mental health'), as well as regional instruments, such as the African Charter on Human and Peoples' Rights, the European Social Charter, the Arab Charter on Human Rights, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, or the ASEAN Human Rights Declaration.

The right to health of landmine survivors is most directly impacted when they are left with injuries including permanent disabilities and physical and mental impairments.



Landmine victims, Siem Reap, Cambodia, Oct. 2008 - Shankar S.





A schoolgirl walks around the grounds of her semi-destroyed school that's contaminated with landmines in Taiz, Yemen - Al-Baraa-Mansoor/Save the Children

■ Right to education

The right to health of landmine survivors is most directly impacted when they are left with injuries including permanent disabilities and physical and mental impairments. The Landmine and Cluster Munition Monitor recorded 3,015 injuries in 2022, although the real number is likely to be higher due to underreporting.

Additionally, even when not harming a person directly, landmines can also have a negative impact on the right to health by restricting access to or damaging healthcare services, facilities, and infrastructure. Furthermore, landmines can indirectly undermine the general health of a population by adversely affecting food and nutritional security, access to safe drinking water, and hygiene and sanitation. In fragile and post-conflict contexts, already strained public health systems are placed under even greater pressure.<sup>16</sup>

In light of the far-reaching implications of landmines on individual as well as public health, provisions on victim assistance under international frameworks on landmines and ERWs necessarily include provisions on access to healthcare services, emergency medical response and ongoing medical care, rehabilitation, and psychological and psychosocial support. However, as noted by the 2023 Landmine Monitor, as of 2022, healthcare services in many landmine-affected States remained under-funded and faced increasing challenges regarding accessibility, lack of expertise, and a lack of supply or availability of medicines and other medical materials.<sup>17</sup>

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Children who survive landmine accidents may face disabilities and other health conditions that can directly affect their education, if they are forced to leave school due to their learning abilities being impaired, or because of the financial burdens imposed on their families due to long and costly recovery processes.

As communities that have been displaced by conflict return to areas where hostilities have ended, the continued presence of landmines can make it difficult for children to access school, for example, because their route to school crosses a mined area. The presence of landmines, the destruction of school facilities, as well as the fear of contamination, can lead children to drop out of school altogether.<sup>18</sup> Furthermore, children who survive landmine accidents may emerge with disabilities or other health conditions that directly affect their education.

The UDHR, in its article 26, establishes that everyone has the right to education, which 'shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.' Furthermore, the ICESCR provides for compulsory and free primary education, and for the accessibility of secondary and higher education. The Committee on Economic, Social, and Cultural Rights (CESCR) has further explained that States have three types of obligations regarding the right to education: to respect, protect and fulfil, i.e., to refrain from adopting measures that hinder or prevent the enjoyment of the right to education, to take measures to prevent third parties from interfering with the enjoyment of the right to education, and to take positive measures to enable individuals and communities to enjoy said right. In the context of the presence of landmines, these obligations mean that States must take proactive steps to clear landmines around schools, equip children with explosive ordnance risk education so they can be aware of the dangers should they encounter explosives, and rebuild educational facilities and ensure the safety of children therein.

There is a direct link between landmines' impact on the right to education and the achievement of the SDGs, given that landmines are mostly located in developing countries. Children who are forced to drop out of school because of landmines and ERW are not only being denied their basic right to an education, rather, their future professional and economic prospects are also undermined.



## ■ Right to food

Landmines directly impact communities' food and nutrition security in various ways, including the denial of access to and the contamination of arable land and water sources, the destruction of infrastructure and services, the loss of livestock, and the degradation of land.<sup>19</sup>

The UDHR recognises the right to food as part of the right to a standard of living adequate for health and well-being (article 25), as does the ICESCR in its article 11. The Special Rapporteur on the right to food has defined this right as 'the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.'<sup>20</sup>

Landmines directly undermine the right to food by preventing communities from accessing food products and sources, and indirectly restrict the enjoyment of this right by harming agricultural production, often with long-term effects.<sup>21</sup> Furthermore, the destruction of crops and the rendering of agricultural lands useless due to contamination by landmines, as noted by the Special Rapporteur on the right to food and the Special Rapporteur on toxic waste, can constitute violations of international humanitarian law, as it may fall under the definition of the intentional starvation of civilians.<sup>22</sup>

As with other rights impacted by the presence of landmines, the effects of explosive ordnance on communities' ability to feed themselves and to obtain yield from agricultural lands and resources also holds a direct link with sustainable development. The presence of landmines in post-conflict societies extends and adds to the deprivations caused by the conflict itself, by restricting communities' access to essential services to meet their basic needs, thereby heightening food insecurity, and fostering aid dependency.

## ■ Right to water and sanitation

As with food, the right to water can be fundamentally compromised by the presence of landmines in the ground or near water sources, and by damage to water and sanitation systems and infrastructures such as water storage units, affecting not only access to clean drinking water, but also sanitation and hygiene, agriculture, biodiversity, and livelihoods.<sup>23</sup>

The right to water and sanitation recognises water as an enabler of basic human conditions for a dignified life and for realising the right to an adequate standard of living.<sup>24</sup> The right was first recognised in 2010 by GA resolution 64/292 as 'a human right that is essential for the full enjoyment of life and all human rights.' This recognition was later reaffirmed by Human Rights Council resolution 15/9, which states that 'the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.' In 2020, the Food and Agriculture Organisation explained that the normative content of the right, despite being initially linked to access to water for personal and domestic use, has subsequently expanded to include inter alia the use of water for food and agricultural production. As a consequence, this right intersects with others, such as the rights to food, to health, and to life.<sup>25</sup>

Water pollution due to the presence of landmines is also directly linked with the achievement of the SDGs, particularly SDG6, which calls on States to guarantee the availability and sustainable management of water and sanitation for all. Effective mine action can therefore make an important contribution to the achievement of this Goal, as land release can enable access to water treatment plants and sanitation infrastructure – crucial for the return of IDPs. For example, UNDP's Funding Facility for Stabilisation project in Iraq, in coordination with the UN Mine Action Service (UNMAS), focused on clearing mines and rehabilitating infrastructure such as water treatment plants and electricity stations, to provide clean drinking water for returning IDPs.<sup>26</sup>

## ■ Freedom of movement

Landmines are deployed to inhibit freedom of movement during conflict, but their negative impacts on this freedom can last long after the conflict has ended. For years or even decades after, landmines may prevent persons and communities from going about their day-to-day activities, restricting access to areas that are essential for everyday life and livelihoods, such as agricultural lands and forests, restricting access to essential infrastructure such as schools and hospitals, and restricting access to recreational areas.

The displacement caused by conflict and, by extension, the presence of mines, is thus a direct violation of freedom of movement, as recognised by article 13 of the UDHR, article 12 of the ICCPR (everyone has the right to freedom of movement and residence within the borders of the State, the right to leave any country and to return to their country). In the context of mine-affected areas, both IDPs and persons who have left the country because of conflict are impacted. The latter are also protected by the obligation to respect the right to return to one's own country as enshrined in international refugee law.<sup>27</sup> As clarified by the Human Rights Committee, 'there are few, if any, circumstances in which deprivation of the right to enter one's own country could be reasonable.'<sup>28</sup> This points to the direct connection with the State's obligation to ensure that areas previously affected by conflict are not mine-contaminated, so that both IDPs and persons who have fled the country can safely return. This does not just include areas where communities were settled prior to the conflict, but also areas that may be transited by returning refugees and IDPs.

For this reason, clear demarcation, marking, and fencing of mined areas is crucial, as refugees and IDPs are typically unfamiliar with the territories they have to transit through, and their previously inhabited areas may have become extremely dangerous. Furthermore, as much of these movements takes place across border areas, the exchange of information between countries sharing borders, including maps of contaminated areas, is essential to ensure the safety of populations on the move.



A view of a warning sign for landmines on the West Bank, Occupied Palestinian Territories - UN Photo/Stephenie Hollyman.



## ■ Right to a clean, healthy, and sustainable environment, and climate resilience

Landmines have both immediate and long-term implications for the enjoyment of the right to a clean, healthy, and sustainable environment.<sup>29</sup> The continued presence of mines can be and often is the 'most [long-] lasting environmental problem' after a conflict has ended.<sup>30</sup> They can release harmful chemicals into their surroundings either upon detonation or through leeching, leading to land and soil degradation, and water contamination.<sup>31</sup> This, in turn, has negative long-term consequences for biodiversity, and agriculture (livestock and cultivation), and thus the food chains upon which humans depend. Contamination and environmental degradation due to landmines has been documented in countries such as Ukraine,<sup>32</sup> in the context of the ongoing war with Russia, in Cambodia, and in Lebanon.<sup>33</sup>

The right to a safe, clean, healthy, and sustainable environment, which was first recognised as a standalone right at the international level in 2021 with the adoption of the Human Rights Council resolution 48/13,<sup>34</sup> and in 2022 with the adoption of GA resolution A/76/30,<sup>35</sup> entails both substantive and procedural elements. The substantive elements include clean air, a safe and stable climate, access to safe water and adequate sanitation, healthy and sustainably produced food, non-toxic environments in which to live, work, study, and play, and healthy biodiversity and ecosystems. The procedural elements include access to information, the right to participate in decision-making, and access to justice and effective remedies, including the secure exercise of these rights free from reprisals and retaliation. The right is inextricably linked to the enjoyment of many other human rights, including the rights to life, to health, and to an adequate standard of living.

While the negative impacts of landmines on the environment are clear – besides direct environmental

degradation, they can affect agricultural production and sustenance of local communities,<sup>36</sup> impact the quality of food and water<sup>37</sup> – mine action can also be turned into a force for positive environmental change. For instance, in Croatia, the EU-funded Naturavita project ('Demining, restoration, and protection of forest and forestland in protected Natura 2000 sites in Danube-Drava regions'), which ran between 2015 and 2023, managed to clear 5,611 ERW and restore thousands of hectares of forests and adjacent wetlands, revitalising the local ecosystems, and enabling the development of conservation infrastructure.<sup>38</sup>

There are also important links between landmines and climate change. First, increasing climate change-related phenomena can bring heightened risk: for instance, in Bosnia and Herzegovina floods and landslides have dislodged and/or displaced previously buried landmines,<sup>39</sup> while munition stockpiles and arms depots in Iraq have exploded amid unprecedented heatwaves.<sup>40</sup> Second, as explained in a 2023 report by the Geneva International Centre for Humanitarian Demining (GICHD), there is considerable overlap between the most landmine-afflicted countries and the most climate vulnerable States (for example, LDCs in Africa and Asia).<sup>41</sup> To be precise, 60 per cent of the 20 countries most vulnerable to climate change are contaminated by explosive ordnance. In such situations, the presence of landmines exacerbates existing vulnerabilities and the difficulties faced by communities in adapting to a changing climate. Climate change-related events such as heatwaves, heavy precipitation, droughts, and tropical cyclones drive human displacements, have a negative effect on human health and contribute to the increase of hunger and poor nutrition in areas where vulnerable populations already struggle to grow or find sufficient food. In other words, the presence of landmines, especially in the poorest countries, significantly undermines climate resilience.





Mine action, including demining, can therefore have significant and immediate benefits for the environment, for climate resilience, and thus for the ability of affected populations to enjoy their human rights. An important caveat to this, however, is that mine action can in some cases also contribute to environmental degradation if it is not properly planned and conducted. This may include the destruction of flora and fauna as clearance activities are carried out, or the improper disposal of hazardous waste.<sup>42</sup> While there is growing acknowledgment of the risks to environment arising from demining activities,<sup>43</sup> there are no standards for environmental management and for mitigation of environmental harm<sup>44</sup> in demining operations. Thus, when conducting demining operations, a 'do no harm'<sup>45</sup> approach grounded upon the right to a clean, healthy, and sustainable environment, is key to ensuring that mine action truly benefits both local ecosystems and communities in mine-affected areas, and contributes to the effective enjoyment of all human rights.<sup>46</sup> Over the years, many proposals have been made to develop a normative framework to this effect, including by ICBL in its 2000 Landmine Monitor, which called for strong global environmental impact assessments and cooperation in the creation of a minimum environmental standards for State Parties to the APMBC.<sup>47</sup>

### ■ Duty of international cooperation

The vast majority of landmines are the legacy of conflict in developing countries, including Least Developed Countries, which may have difficulties in adequately funding and resourcing demining operations. The cost of removing a mine can range between USD 300 to USD 1,000 per mine, while the cost of clearing all existing mines across the world would be between USD 50 billion to USD 100 billion, an astronomical figure especially compared to the relatively low cost of laying them – between USD 3 and USD 75 per mine.<sup>48</sup>

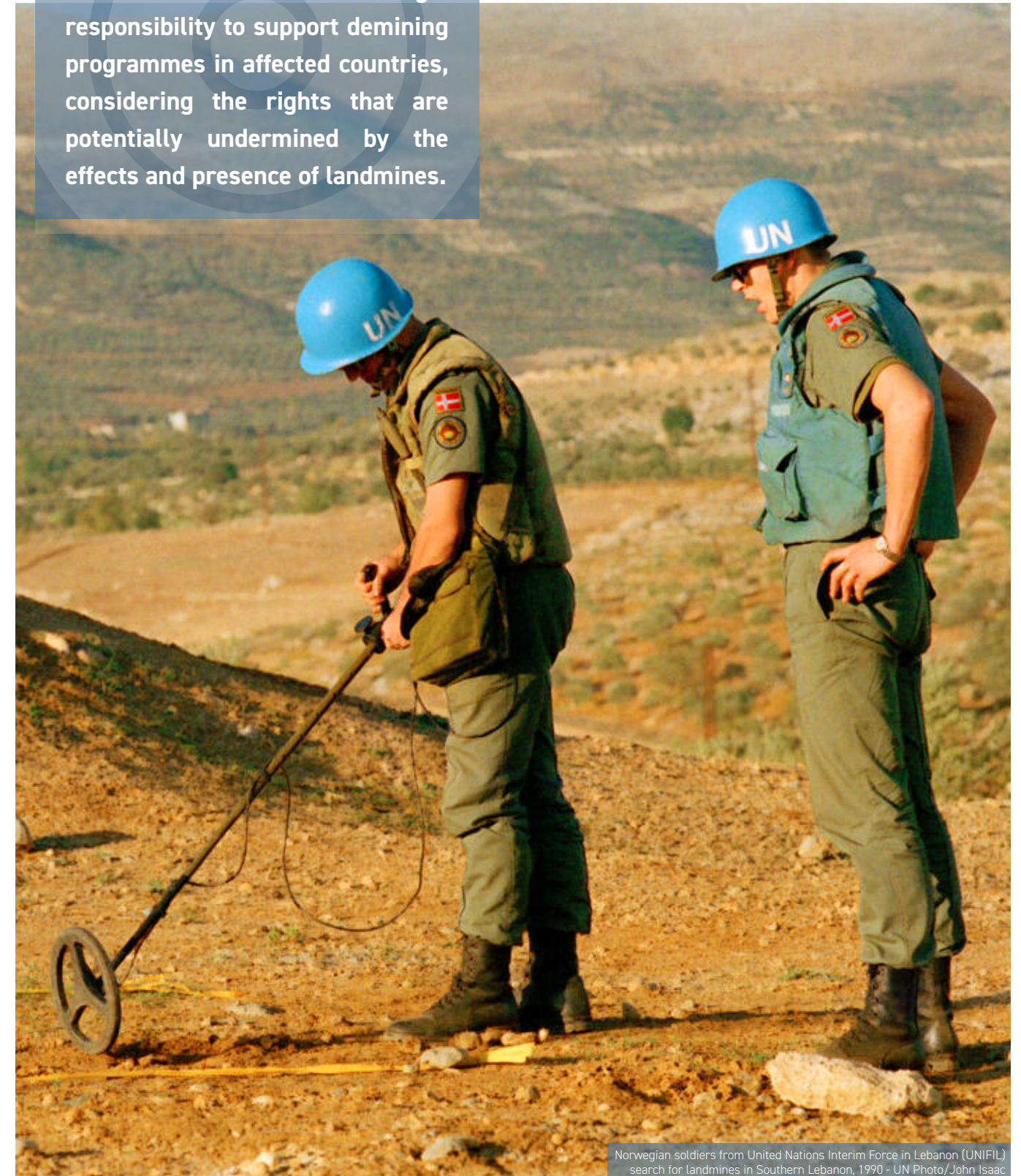
Furthermore, the economic costs of addressing the impacts landmines extend beyond strictly clearance and removal operations: mine victim assistance may in

some cases be necessary in the long-term, while the loss of productive contributions to the economy by adult victims added to the costs of rebuilding infrastructure can add up to millions (for instance, in Lebanon, UNDP estimates that between 1998 and 2010, mine/ERW action had an approximate annual cost of almost USD 12 million).<sup>49</sup> Additionally, the economic argument can also be considered from the opposite perspective, as those same UNDP calculations estimate that for each dollar spent on mine action, there was an average benefit of USD 4.15 – such returns coming from increased agricultural production in cleared lands, production of forest products, trade, development of housing and infrastructure, and resumption of industry, tourism, and hospitality activities in cleared areas.<sup>50</sup>

The international community as a whole bears a collective legal responsibility to support demining programmes in affected countries, considering the rights that are potentially undermined by the effects and presence of landmines, as derived from several international human rights instruments, including the ICESCR (article 2.1 stipulates that States have an obligation to take steps towards the progressive realisation of economic, social and cultural rights, including 'through international assistance and co-operation, especially economic and technical, to the maximum of its available resources') or article 24.4 of the CRC, which establishes that State Parties shall 'promote and encourage international cooperation with a view to achieving progressively the full realisation' of children's right to the highest attainable standard of health.

Moreover, it could also be argued that the international community in general, and developed countries in particular, also have a moral and historical responsibility to engage in mine action and support mine-affected countries, particularly given that in most cases, until the APMBC entered into force, landmines manufacturers and suppliers were in developed countries (Europe, the UK, and the US)<sup>51</sup> and in certain cases, States laid them in conflicts outside of their territory (e.g., the US in Indochina, the Soviet Union in Afghanistan, and Armenia in Azerbaijan).<sup>52</sup>

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The international community as a whole bears a collective legal responsibility to support demining programmes in affected countries, considering the rights that are potentially undermined by the effects and presence of landmines.



Norwegian soldiers from United Nations Interim Force in Lebanon (UNIFIL) search for landmines in Southern Lebanon, 1990 - UN Photo/John Isaac



## Vulnerable Groups

Adult men and boys represent the majority of all reported casualties of landmines and ERWs (84% of the recorded casualties by the Landmine Monitor in 2022), as they face high risks primarily because, in most societies, they bear the main economic responsibilities, and move or travel more for income-generating and other livelihood activities. However, other groups also face distinct human rights challenges in terms of the effects of landmines and ERWs, as multiple and differentiated factors intersect to impact their enjoyment of human rights in the context of landmines.

### ■ Children

In 2022, children accounted for half of the recorded civilian casualties (1,171 children were either killed or injured) due to landmines and ERW.<sup>53</sup> Children may encounter such ordnance in playing fields, on their way to school, or as they engage in other livelihood or recreational activities. Landmines and unexploded ordnance therefore affect nearly all rights of children guaranteed under the CRC, including the child's right to life, a safe environment to play in, education, health, water and sanitation, amongst others.<sup>54</sup>

Children often lack the knowledge of risks posed by such devices, and often mistake colourful explosive ordnances for toys (including notorious 'butterfly' landmines, often built out of non-metallic material evading traditional landmine detectors) or ordinary household objects.<sup>55</sup> Among many other cases around the world, Save the Children has documented cases of children in Yemen being killed and injured as a result

of another child finding an explosive ordnance and bringing it to show their friends.<sup>56</sup>

Child survivors of landmines are left with lifelong debilitating injuries or disabilities, and psychological trauma. In many cases, this is due to the lack of access to timely and essential care, rehabilitation, psychosocial services, and other forms of support. In addition to this direct harm, indirect harms are caused, for example, by the destruction of vital infrastructure such as schools, hospitals, and water and sanitation facilities.<sup>57</sup> Furthermore, landmines also have devastating effects on the lives and rights of children when their parents or caregivers are killed or injured. In this way, landmines and explosive ordnance can also multiply and amplify the human rights challenges that children may already face, especially in precarious contexts (e.g., conflict, post-conflict, poverty, or displacement).

With these particular risks and vulnerabilities in mind, comprehensive explosive ordnance risk reduction (EORE), and other awareness-raising campaigns targeting children, must be an essential component of any mine action strategy. Additionally, initiatives such as the 'Safe Ground' campaign, launched by UN Secretary-General António Guterres in 2019, and aimed at 'turning minefields into playing fields,' show that partnerships between States, donors, civil society, sports federations, and the private sector can be instrumental in enhancing the protection of children from landmines. For instance, in the context of the Safe Ground campaign and a related UNDP project, in 2021, school grounds in Cambodia were opened for the first time after years of mine contamination, allowing local children to play football.<sup>58</sup>



Jihad, a Save the Children psychosocial support volunteer and landmine survivor visits injured children in Taiz, Yemen - Al-Baraa Mansour/Save the Children



## ■ Women

Women are relatively less likely to be direct victims of landmines and unexploded ordnances compared to men, as they are less likely to move or travel to the same degree.<sup>59</sup> However, different mobility patterns and divisions of labour amongst men and women also entail differential impacts from landmines and unexploded ordnances.<sup>60</sup> For example, while men may be at greater risk on public routes, women may be particularly vulnerable while gathering food, water, fuel, or firewood.<sup>61</sup>

Furthermore, women who survive face both immediate and long-term impacts on their rights, that are compounded by existing multiple forms of gender-based discrimination. For example, they are less likely than men to have access to timely healthcare, and in some cases, gender norms limiting the examination of women by male doctors may have drastic effects on the care they receive, which may lead to long-term disabilities and other health issues. In the long term, women who are injured or disabled due to landmines are likely to face additional stigma and discrimination in their communities. Furthermore, as women are usually the main caregivers in a family, their inability to perform household tasks because of injury or disability can result in the breaking of familial relationships and in further isolation of those women.<sup>62</sup>

International instruments such as the 1995 Beijing Declaration and Platform for Action have recognised that women and children are particularly affected by the indiscriminate use of anti-personnel landmines.<sup>63</sup> Subsequently, this recognition has been reaffirmed by the Commission on the Status of Women, as well as other entities, including the UN Gender Guidelines for Mine Action Programmes.<sup>64</sup> The Oslo Action Plan also highlights the importance of gender as a factor when considering the impacts of mines and other ERWs, and calls for mine action to reflect and be informed by the different and special needs of women and girls.<sup>65</sup> This has, in turn, led recognition of the need for the integration and consideration of gender dimensions and perspectives in mine action, accommodating the different needs of women, and an acknowledgement

that failure to do so would exacerbate gender-based injustices.<sup>66</sup> In practice, one way to do so is to train and employ more women to implement mine actions. For instance, in Iraq, the Geneva International Centre for Humanitarian Demining (GICHD) supported a Danish Refugee Council programme to promote the employment of women, leading to a significant increase in the proportion of women staff (from 9% to 16% over a one year period).<sup>67</sup> Yet, despite these and other efforts, a 2023 survey from Mines Action Canada showed that the demining workforce is still deeply unequal (around 70% male, 30% female), with women largely restricted to implementing EORE activities, while men are more focused on clearance operations.<sup>68</sup>

Gender mainstreaming initiatives in the context of mine action also contribute to the achievement of the SDGs through women's economic empowerment, thereby reducing inequalities and promoting local ownership.

## ■ Persons with disabilities

Besides the evident role of landmines in causing disabilities, landmines have many other far-reaching implications for the rights of persons with disabilities, who may also face severe mobility issues, difficulties in participating in public and political life, and challenges in accessing healthcare, education, employment, etc. Due to such barriers, persons with disabilities may also face additional difficulties in accessing the benefits of mine action, including risk education, psychosocial support and rehabilitation, and other services.<sup>69</sup>

Given these interlinkages, it is not surprising that international efforts and movements pushing for landmine regulation and impact mitigation have gone hand-in-hand with efforts to protect and promote the rights of persons with disabilities.<sup>70</sup> The 1997 Anti-Personnel Mine Ban Convention (APMBC) was the first international disarmament instrument to explicitly recognise and address the needs of victims of a particular weapons system.<sup>71</sup> The provisions of

the Convention, requiring States to provide assistance for the care, rehabilitation, and social and economic reintegration of mine victims,<sup>72</sup> reflect the close linkages and overlap with broader efforts directed towards the protection and promotion of the rights of persons with disabilities.<sup>73</sup>

In fact, the centrality of victim assistance in the context of humanitarian disarmament, as introduced in the APMBC, and its underlying rights-based approach, helped pave the way towards the development of a more elaborate framework for the protection and promotion of the rights of persons with disabilities in the 2006 Convention on the Rights of Persons with Disabilities (CRPD). This helps explain the CRPD's approach, which attempts to move beyond the consideration of persons

with disabilities as mere victims or survivors, to a more inclusive approach guided by the core principles of equality, non-discrimination, and participation. Notably, the 2008 Convention on Cluster Munitions represented a further step forward, integrating a more robust legal obligation towards victim assistance, based on the CRPD's rights-based approach.<sup>74</sup>

The importance of this common human rights-disarmament normative evolution is underscored by the fact that the vast majority of States parties to the CRPD are also party to the APMBC, including nearly all States with a considerable number of landmine victims.<sup>75</sup> With these linkages clearly in mind, the Oslo Action Plan calls upon States parties with a significant number of victims to align their efforts with the CRPD.<sup>76</sup>

Persons with disabilities may also face additional difficulties in accessing the benefits of mine action, including risk education, psychosocial support and rehabilitation and other services.



Disabled Athletes Celebrate International Mine Awareness Day, South Sudan - UN Photo/Isaac Billy



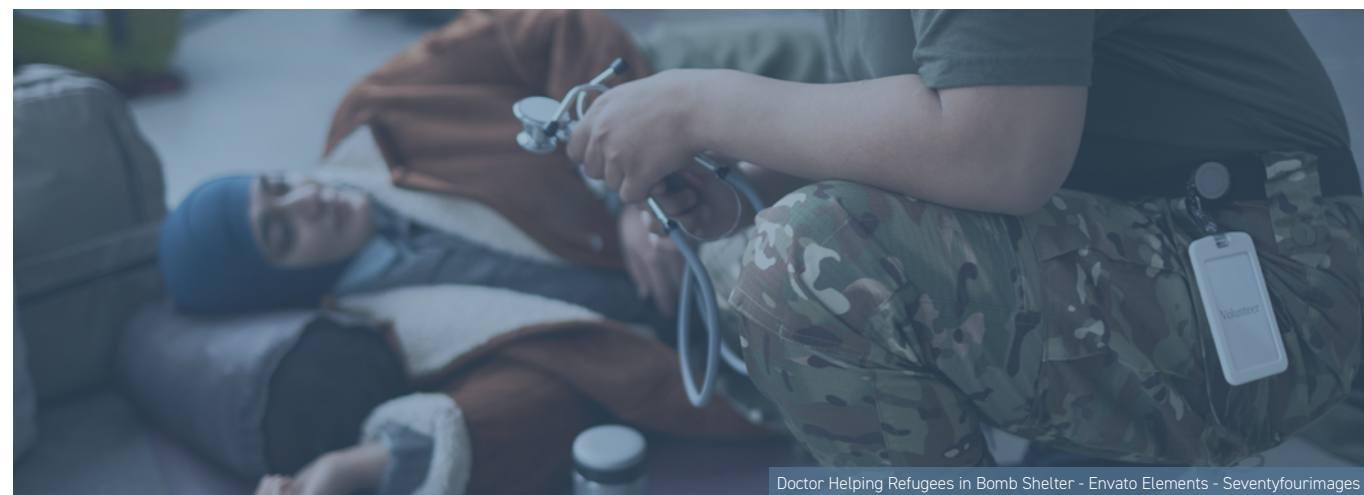
## ■ Refugees and internally displaced persons (IDPs)

As noted above, landmines and other explosive ordnance play a double role in conflict-driven displacement, as triggers of displacement as well as barriers to safe return. States that are the country-of-origin of very high numbers of refugees are also among the most landmine-contaminated (e.g., Syria, Afghanistan, Ukraine), while the location of landmines along the borders of neighbouring countries (e.g., Iran and Türkiye) further undermines the possibility of safe and dignified return.<sup>77</sup> Additionally, countries with some of the highest populations of IDPs are also some of the most contaminated (e.g., Syria, Ukraine and Yemen).<sup>78</sup>

Refugees and IDPs, by virtue of being on the move through active conflict zones and other transit areas, are particularly vulnerable to landmines and other explosive ordnance, including anti-vehicle mines, planted amid the conflict by both government and non-State armed groups. For instance, in Angola in the early 2000s, UNHCR was 'forced to delay organised repatriation because roads could not be used before they were cleared.'<sup>79</sup> Another example can be found in the case of Azerbaijan, where hundreds of thousands of IDPs were prevented from returning safely in the post-conflict arrangement because of intense landmine contamination.<sup>80</sup>

Furthermore, the risk to refugees and IDPs is heightened by their unfamiliarity with the camps they live in or the routes they use to transit, in addition, in some cases, to the deliberate targeting of such routes (e.g., in Syria).<sup>81</sup> Even amongst refugees and IDPs, certain groups such as children or persons with disabilities are particularly vulnerable to landmines and explosive ordnance.<sup>82</sup>

Landmines and explosive ordnance pose a further challenge to the delivery of humanitarian aid and services that are vital for refugee and IDP populations, and the promotion and protection of their human rights. In some cases, landmines and explosive ordnance have been deliberately instrumentalised as de facto policies or tools of containment.<sup>83</sup> For example, in Myanmar, OHCHR has noted the deliberate planting of mines by security forces along the border with Bangladesh, to prevent Rohingya refugees from returning to Myanmar.<sup>84</sup> Such uses of landmines, extending beyond the principles of military necessity, proportionality, distinction, and humanity, to become means of coercion and control, are a clear violation of international humanitarian law and can further contribute to protracted displacement and barriers to post-conflict reconstruction and recovery efforts. In many cases, such as in Sri Lanka, prolonged contamination and trauma caused by landmines and explosive ordnance has led to protracted displacement as well as situations where refugees and IDPs have never returned.<sup>85</sup>



Doctor Helping Refugees in Bomb Shelter - Envato Elements - Seventyfourimages

## ■ Indigenous People

In many countries, landmine contamination is predominantly concentrated in rural areas, posing distinct risks and human rights challenges for communities living in such areas, including Indigenous People.<sup>86</sup> In addition to the risk of direct harms to life, physical integrity, and health, from landmines, such communities are particularly vulnerable to the loss of livelihood due to contamination of or damage to the environment including agricultural fields and farms, which are often direct sources of livelihood for local populations.

In countries such as Colombia, Indigenous reservations have been plagued with landmines planted by non-State armed groups, violating the rights of Indigenous Peoples to the ownership and control of their lands,

cultural sites, and heritage.<sup>87</sup> Their freedom of movement across ancestral lands is limited by the presence of landmines and unexploded ordnance, adding to existing multiple and intersectional forms of discrimination, and disrupting cultural patterns of subsistence.<sup>88</sup>

In order to provide remedy for such violations, land clearance and release operations involving Indigenous communities and respecting their customary practices, such as the ones carried out by the Colombian Campaign Against Mines, can be an essential means of redress and preservation.<sup>89</sup> However, any such operation requires the utmost attention to Indigenous voices and needs, and their free, prior, and informed consent to participate.



In many countries, landmine contamination is predominant in rural areas which pose distinct risks and human rights challenges for communities living in such areas.

Demining technicians from the UK charity HALO Trust at work early in the morning, on the edges of a paddy field near Thunukkai, northern Sri Lanka. - Russell Watkins / DFID UK





Kofi Annan, Secretary-General of the United Nations, addressing the opening ceremony for the signing of the Convention on the Prohibition of the Use, Stockpiling, Production, Transfer of Anti-Personnel Mines and on Their Destruction, 1997 - UN Photo/E

## 02 HUMAN RIGHTS AND LANDMINES: NORMATIVE FRAMEWORKS

### ■ International frameworks governing the use, deployment, and destruction of mines

The protection of civilians in the context of armed conflict and hostilities has been the subject of significant normative development since the adoption of the four Geneva Conventions, in 1949, and their two additional Protocols, in 1977. The Fourth Convention relating to the Protection of Civilian Persons in Time of War, established formal protection mechanisms to address the use of explosive ordnance, with the aim of minimising suffering and protecting civilians.<sup>90</sup>

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The Fourth Convention relating to the Protection of Civilian Persons in Time of War, established formal protection mechanisms to address the use of explosive ordnance, with the aim of minimising suffering and protecting civilians.



**The CCW, as amended by Protocol II, fell short of a total prohibition of anti-personnel landmines.**

In 1980, States adopted the Convention on Certain Conventional Weapons (CCW), which aimed to protect civilians during armed conflict by banning or restricting the use of certain conventional weapons (i.e., not weapons of mass destruction) which may be deemed to be excessively injurious or to have indiscriminate effects. In 1996, a specific Protocol (Protocol II) to the Convention was added, governing prohibitions or restrictions on the use of mines, booby-traps and other devices. Under Protocol II, parties accepted responsibility 'for all mines, booby-traps, and other devices employed by it' and undertook 'to clear, remove, destroy or maintain them as specified in article 10 of this Protocol.' The Protocol further asserted that, 'it is prohibited in all circumstances to direct weapons to which this article applies, either in offence, defence or by way of reprisals, against the civilian population as such or against individual civilians or civilian objects.' The instrument also called for 'all feasible precautions [to] be taken to protect civilians from the effects of weapons to which this article applies' (e.g., fencing, signs, warning, and monitoring), but circumvented the likely impact of the provision by recognising that 'feasible precautions are those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including [...] military considerations.' The weakness of such provisions, together with inadequate implementation/compliance, led to frequent criticisms of the Protocol, and meant that it failed to prevent the increasing use of landmines to target civilians.<sup>91</sup>

From the late 1980s, with the advent of new devices and their increasing use to target civilian populations, particularly in the context of the Cold War, calls began to emerge, especially among human rights civil society organisations, for the development of a specific normative framework focused on anti-personnel mines. Spurred by data from organisations such as the International Committee of the Red Cross (ICRC), revealing the scale of civilian casualties caused by landmines, including in post-conflict situations,<sup>92</sup> in 1992 the various civil society campaigns on the subject (led by, for example, Human Rights Watch, Physicians for Human Rights, and Vietnam Veterans of America Foundation) joined together to launch the International Campaign to Ban Landmines (ICBL). Mounting public pressure led States to begin to act, in the form of export moratoria (e.g., the US, Belgium, France, Germany, Greece, the Netherlands, South Africa), destruction of stockpiles (e.g., Netherlands), and legislation banning the use of landmines (e.g., Belgium in 1995). In parallel, a number of UN agencies, including UNICEF, joined calls for a ban on landmines, and in late 1996, GA resolution 51/45S<sup>93</sup> was adopted with the support of 155 States, through which UN member States decided to begin negotiations on a new treaty banning landmines.

The failure of the negotiations to introduce a prohibition on or stricter regulation of anti-personnel mines at the 1995 and 1996 Review Conferences of the CCW, led to the launch of the so-called 'Ottawa Process,' led by the Canadian Government. In December 1997, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (APMBC, 'Mine Ban Treaty,' or 'Ottawa Convention') was adopted by 122 States. It entered into force in 1999.<sup>94</sup>

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The Mine Ban Treaty was a major milestone not only because it was the culmination of a years-long transnational coalition to shine a light on the plight of victims and survivors, but also because it was the first time that States agreed to ban a widely used weapon.





UNMAS destroyed UXO in Kuruki 40 km South of Juba - UN Photo; Isaac Billy

The Treaty was a major milestone in the push to secure a mine free world, and to shine a light on the plight of victims and survivors.<sup>95</sup> The Convention covered all mines that are person-activated, regardless of where they are located, whether they serve any dual purposes, or whether they have any smart features such as self-deactivation. Like the CCW before it, the Mine Ban Treaty is grounded upon the principles of distinction and proportionality, as recognised in its preamble: 'the right of the parties to an armed conflict to choose methods or means of warfare is not unlimited' and 'a distinction must be made between civilians and combatants.'

The Mine Ban Treaty does not contain any explicit provisions on human rights. However, its genesis among human rights campaigns, its focus on survivors and victims, and its use of human rights principles such

as the duty of international cooperation in the context of mine clearance, point to the rights-based or rights-informed nature of the treaty.

Article 6, for example, establishes State parties' right to seek and receive assistance from other State parties, as well as the duty of each party 'in a position to do so' to provide assistance for the care, rehabilitation, and social and economic reintegration of mine victims, for mine awareness programmes, as well as for mine clearance activities and the destruction of stockpiled anti-personnel mines.

In parallel to these normative advances, in 1997 the newly established UN Mine Action Service (UNMAS, which is hosted under the Department of Peace Operations) published the first edition of the International Standards for Humanitarian Mine

Clearance Operations. In 2001, these became the International Mine Action Standards (IMAS). The IMAS, which are reviewed and updated every three years, constitute the main international framework for the safety, efficiency, and effectiveness of mine action. There are currently 47 IMAS, covering issues such as victim assistance, environmental damage, risk education, and technical requirements for equipment and machinery used in demining operations.

Despite this progress, by the early 2000s, it had become evident that certain weapons, used widely in conflict, were not covered by the provisions and prohibitions of the aforementioned instruments. Therefore, in late 2003, following further campaigning on the part of civil society organisations, States adopted Protocol V to the CCW, addressing the impacts and challenges of explosive remnants of war (ERWs). There had been calls for the development of a dedicated instrument to deal with ERWs already since the 1980s, when UNEP published a report highlighting their environmental impacts and proposing remedial measures, including technical assistance and cooperation in the clearance of the material remnants of war that constitute a threat to the environment.<sup>96</sup>

In 2008, a further civil society advocacy campaign, led to the adoption of the Convention on Cluster Munitions (CCM).<sup>97</sup> The CCM can be considered to be complementary to the CCW and the Mine Ban Treaty, as it addresses the specificities of cluster munitions, which are characterised by high failure rates, thereby posing notable long-term risks to civilian populations in conflict and post-conflict situations. The CCM also took important strides in the area of victim assistance, linked to and complementing the adoption of the Convention on the Rights of Persons with Disabilities (CRPD).

Since then, the international community has taken further steps to enhance the focus of work undertaken under these instruments on the needs and rights of victims.

A key moment in that regard was the 2009 Second Review Conference of the Ottawa Convention, the so-

called Cartagena Summit on a Mine-Free world, in which States Parties committed to intensifying efforts to ensure the inclusion and active participation of mine victims, their representative organisations, and other stakeholders in victim assistance activities. This would include their involvement in the creation and implementation of national action plans, legal frameworks, and monitoring mechanisms. This commitment led numerous States Parties to incorporate mine survivors and persons with disabilities in national workshops and implementation processes.

A further pivotal milestone took place in 2019, following the Fourth Review Conference of the Ottawa Convention, when State parties adopted the Oslo Action Plan, in which they reaffirmed their commitment to ending the suffering caused by anti-personnel mines 'to the fullest extent possible' by 2025. Importantly, and unlike the Ottawa Convention, the Oslo Action Plan does explicitly incorporate human rights considerations within its commitments. For example, the Action Plan calls for a strengthening of partnerships and more integrated responses between the mine action community and the humanitarian, peacebuilding, development, and human rights communities.<sup>98</sup> Human rights are also, together with gender equality, inclusion, and non-discrimination, among the principles guiding States' commitment to mine victims' full, equal, and effective participation in society. Moreover, the Action Plan calls for the alignment of humanitarian responses and preparedness plans for the safety and protection of mine survivors with human rights obligations contained in relevant international humanitarian and human rights legal instruments.

Furthermore, a dedicated mechanism was created under the auspices of the Mine Ban Treaty to support States in the implementation of the commitments derived thereof. The Implementation Support Unit (ISU) provides inter alia advice and technical assistance regarding mine clearance operations, victim assistance, as well as specific support for Small States that face unique challenges in implementing their obligations. Critically, the ISU strives to connect this disarmament-focused capacity-building work with 'broader approaches related to disability and human rights, and health care.'<sup>99</sup>





#OSLOEVCON #MINEACTION #LANDMINEFREE2025 #MINEBAN #MINEAWARENESS



4th Review Conference  
**MINE FREE  
WORLD**  
OSLO NORWAY

Closing ceremony of the Oslo Review Conference on 29 November  
— Stine Østby / Medvind / Ministry of Foreign Affairs, Oslo

# 03 HUMAN RIGHTS AND LANDMINES: THE WORK OF THE UN HUMAN RIGHTS SYSTEM

Despite the clear and critical links between disarmament and the enjoyment of human rights, the Human Rights Council has taken relatively few steps to leverage States' human rights obligations to support, complement, and strengthen the work of the international disarmament community (e.g., resolutions on the impacts of arms transfers on human rights, on armed drones, and on military technologies). The three main human rights mechanisms (Special Procedures, Treaty Bodies, and UPR) have been somewhat more proactive. For example, the work of the Special Rapporteur on extrajudicial, summary or arbitrary executions was the first to raise the alarm about lethal autonomous weapons systems in 2013; the Human Rights Committee has encouraged due diligence to ensure the use of lethal autonomous systems in times of war or in times of peace conforms with the right to life, prior to using such weapons systems; and, as noted earlier in this report, the Committee on the Rights of Disabilities has long been seized of the issue of landmines, for example in the context of its reviews of States Parties and the issuing of concluding observations.<sup>100</sup>

To better understand the extent to which the human rights mechanisms have focused on the human rights implications of mines and explosive remnants of war (ERWs), URG has conducted a first-ever analysis or mapping of recommendations extended to States in this field.

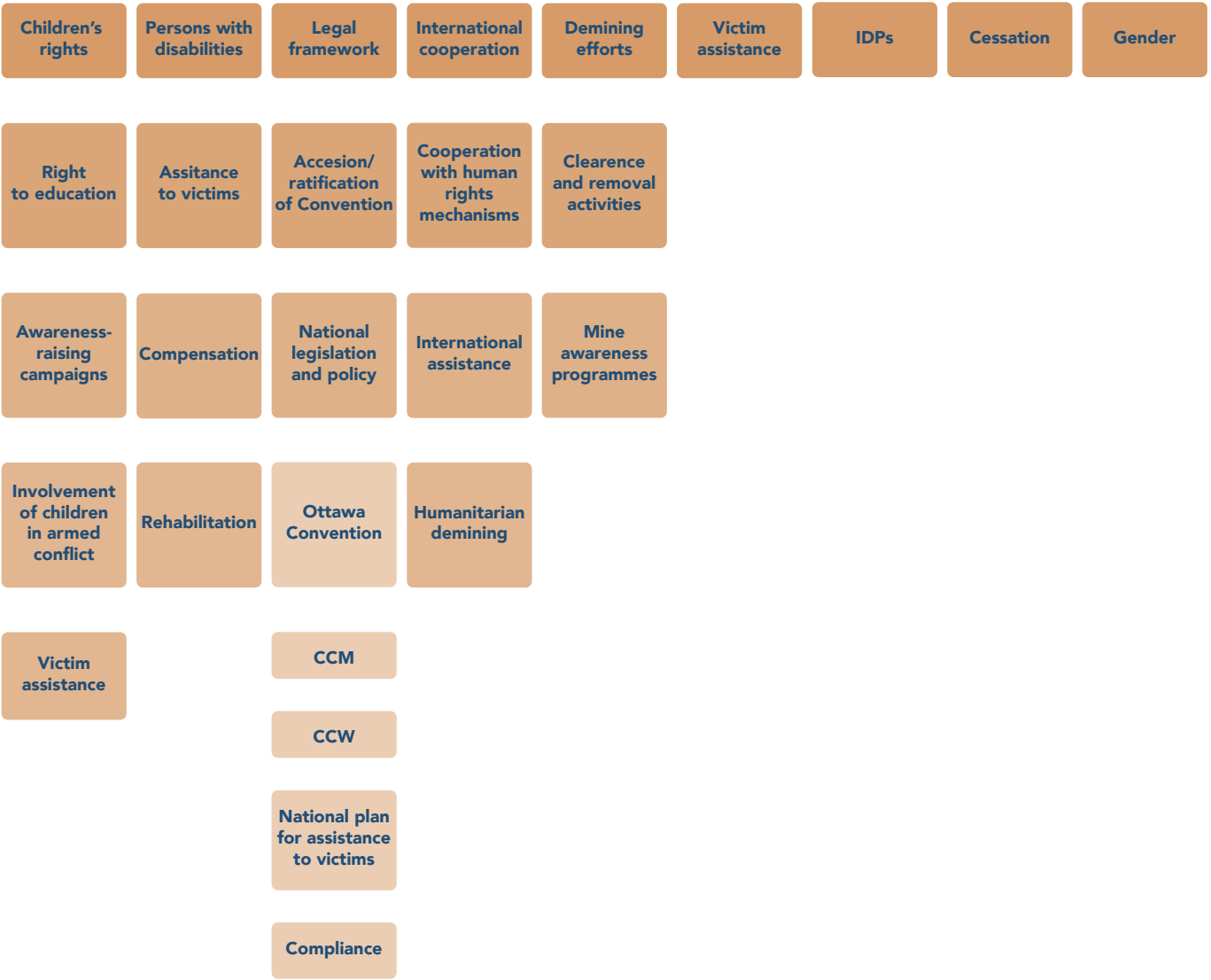


■ Methodology

For the purposes of this analysis, recommendations issued by the mechanisms that explicitly mention landmines, demining, and unexploded ordnance have been considered. The analysis classifies the 110 recommendations according to their primary theme, namely: children's rights; persons with disabilities; legal framework; international cooperation; demining efforts; victim assistance; IDPs; gender dimensions; and cessation of deployment. In order to capture the substance of the recommendations, each of these 'master themes' has then been disaggregated into a series of secondary and additional themes, as illustrated

in the table below (figure 1). The table depicts the master themes in the upper row, and secondary and additional themes in the rows below (the latter shown in the lighter blue squares). Moreover, this analysis takes into account that in many cases, the substance of the recommendations overlaps, as they cover several of these 'master themes' at once, (e.g., by calling on States to 'stop laying landmines, ratify the Ottawa Convention, clear mines and unexploded ordnance, mark and fence mine areas and carry out systematic mine-risk and education activities').

Figure 1: Methodology – themes and subthemes



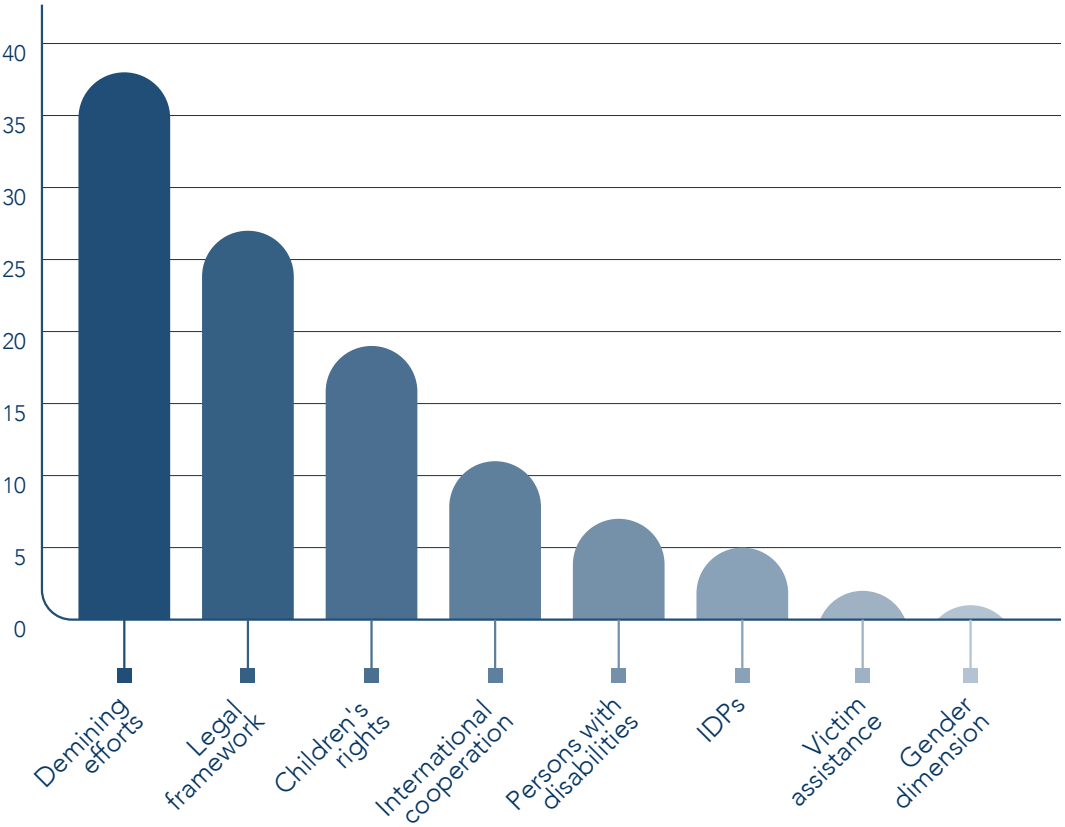
■ Summary of findings

In broad terms, URG's analysis found that the three main UN human rights mechanisms together have issued only 110 recommendations dealing with landmines and anti-personnel mines or other explosive remnants of war (ERWs), and unexploded ordnance, since 2006. Moreover, in recent years such recommendations have been increasingly scarce. While it is welcome that the mechanisms have focused, to some degree on the relationship between human rights and landmines/ERWs, 110 is a relatively low number over the course of 18 years – especially considering the number of mine-affected and mine-using countries that have been reviewed under the UPR or by the Treaty Bodies, or that have received visits from relevant Special Procedures mandates. Notwithstanding, the situation also presents an opportunity for targeted advocacy – it should be relatively easy to convince reviewing States in the UPR, Treaty Body members, and Special Procedures mandate-holders to place a greater focus on the human rights implications of landmines/ERWs.

Main clusters of recommendations

Based on the aforementioned classification (methodology), it is clear that, within this total of 110 relevant recommendations, the largest cluster of recommendations extended by the three main UN human rights mechanisms (34 per cent) deal with demining efforts (see figure 2). Within these, most recommendations have revolved around clearance and removal activities. This includes, recommendations, for example, calling upon States to 'take immediate action to clear existing mines and unexploded ordnance,' to 'promptly dismantle high security zones,' to 'clear all anti-personnel mines,' to identify all areas suspected of containing mines, to mark and fence contaminated areas, and to strengthen funding for demining activities.

Figure 2: Main clusters of recommendations related to human rights and mine action





The second largest cluster of recommendations (27) are focused on relevant legal frameworks for landmines and ERW. A large majority of these urge States to accede to or ratify the Ottawa Convention, or, in a few cases, to the Convention on Cluster Munitions, or (in very few cases), to the Convention on Conventional Weapons.

Other recommendations in this cluster (around 20 per cent of the total) encourage States to implement national action plans on mine clearance/mine action, or to provide assistance to the victims of anti-personnel mines. For example, various UPR recommendations (extended by Argentina), urge States to adopt 'measurable and time-bound' plans to guarantee victims' rights, meeting their needs in terms of 'disability, health, social assistance, education, employment, development and poverty reduction.'

The third most important cluster of relevant recommendations (i.e., relevant to the issue of landmines and ERWs) are those focused on children's rights (though only 19 recommendations fall into this category – again pointing to the need for focused advocacy on the part of children's rights NGOs, UNICEF, etc.) Most of these recommendations are focused on urging States to provide assistance to child victims of landmines. For example, some call on States to ensure that child victims have access to 'special rehabilitation programmes,' while others urge States, with international support as appropriate, to ensure that the 'physical, psychological, and social reintegration needs' of child victims and survivors are met. Other (though fewer) recommendations call on States to increase the allocation of resources to social or welfare centres for (child) mine victims, or to allocate adequate funding to national institutions for disarmament and reintegration (for example, in cases where the victims of landmines or ERW are children that have previously been used as soldiers in a conflict).

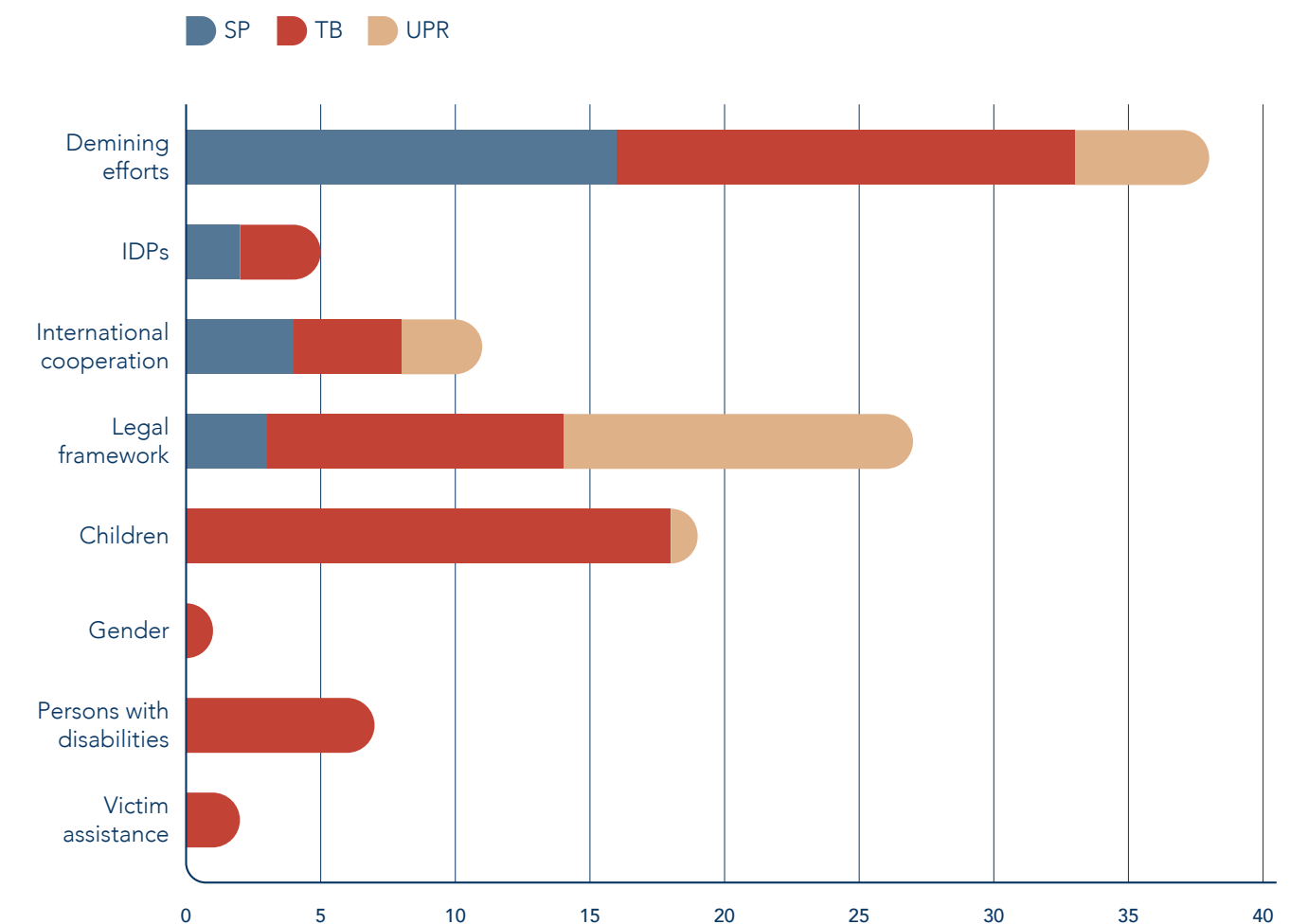
As noted in part I, under international human rights law, specifically the ICESCR, States have a duty of international cooperation, to create an environment conducive to the enjoyment of human rights elsewhere. In the context of landmines, this report argues that this duty of international cooperation includes the

provision of financial, technical, and capacity-building support to help developing countries, especially LDCs, with demining programmes, information and victim support programmes, rehabilitation and reintegration programmes, etc. It also includes practical cooperation between States to, for example, share maps showing the location, to the best of the knowledge of the parties to a conflict, of landmines. Despite the importance of this duty, in the context of landmines and human rights, URG's analysis found only around 12 recommendations related to this point. Again, this suggests room for improvement and expansion.

Most such recommendations are directed towards mine-affected States, urging them to seek 'all bilateral and international cooperation,' 'international assistance to eliminate landmines,' or 'technical and financial assistance for demining activities.' In a small number of cases, the mechanisms have specified that such cooperation or assistance should be aimed at demarcating border zones, supporting those affected by unexploded ordnance, or at raising awareness 'among rural women and girls to prevent injuries or deaths from unexploded ordnance.'

Importantly, however, some recommendations have rather focused on the role of the international community, in line with States' duty of international cooperation. For instance, the Special Rapporteur on extreme poverty, after a visit to the Lao People's Democratic Republic in 2019, urged 'development partners, in particular the United States,' to do 'much more to rapidly clear unexploded ordnance and provide support for those affected.'<sup>101</sup> Such an observation is important for several reasons: first, because it contextualises the duty of international cooperation in mine action within development assistance. In-so-doing, it also touches upon issues of remedy and redress, including reparation – in this particular case, given the US' involvement in the country in the context of the Viet Nam war, (in fact, the US is one of the largest providers of assistance to deal with unexploded ordnance in Lao PDR).<sup>102</sup> Other Special Procedures mandates, as well as Treaty Body members, and reviewing States in the UPR, should take note of and inspiration from such recommendations.

Figure 3: Breakdown of recommendations by theme and mechanism



### Most active mechanisms

As shown in figure 3, the Treaty Bodies have been the most active in extending recommendations to States in the area of mine action. A significant proportion of those recommendations (35 per cent) have been issued by the Committee on the Rights of the Child, including in relation to the Optional Protocol to the CRC on the involvement of children in armed conflict. Other active Treaty Bodies include the Committee on the Rights of Persons with Disabilities, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, and the Committee on the Elimination of Discrimination against Women.

The second most active mechanism in the context of landmines and ERW is the UPR. Reviewing States in the UPR Working Group have extended around 20% of all landmine and ERW-related recommendations. The vast majority of these recommendations were supported (i.e., accepted) by the State-under-review. Interestingly, of the seven that were merely 'noted' (i.e., rejected), all but one aimed to encourage the State to accede to or ratify the Ottawa Convention. Four of the seven have been issued by Panama.



## Rights-holders addressed by recommendations

The Special Procedures have been the least active of the three mechanisms (even if the Special Rapporteur on the situation of human rights in Myanmar has alone been responsible for 13% of all relevant recommendations). Other mandates that might be expected to extend recommendations on mine action, such as the Special Rapporteur on the rights of internally displaced persons (IDPs), the Special Rapporteur on extreme poverty, the Special Rapporteur on the right to a clean, healthy, and sustainable environment, the Special Rapporteur on extrajudicial killings, the Special Rapporteur on the situation of human rights in Afghanistan, and the Independent Expert on foreign debt, have been comparatively less engaged. Together, these four mandates have issued only around ten per cent of all landmine-related recommendations.

The Special Rapporteur on Myanmar's recommendations focus almost exclusively on urging the State to halt the deployment of landmines and ratify the Ottawa Convention. These recommendations, while important (Myanmar had one of highest numbers of casualties in 2022, and registers new uses of landmines every year),<sup>103</sup> generally do not promote a rights-based approach to landmines and mine action, for example by focusing on the needs and rights of survivors and victims.

In certain cases, Special Rapporteurs whose mandates have no obvious link with landmines or ERW, may raise the issue. For example, the Independent Expert on the effects of foreign debt, after a visit to Switzerland in 2018, recommended that the Government monitor the compliance of Swiss financial intermediaries with the production or development of landmines and cluster munitions.<sup>104</sup> This demonstrates the importance of raising awareness about human rights and landmines amongst all Special Procedures mandate-holders, all Treaty Body members, and all States at the Human Rights Council.

Most recommendations (52%) do not mention a specific group of right-holders. Of the 48% that do, children are the most frequently mentioned vulnerable group (in 23% of all relevant recommendations). This perhaps comes as no surprise given that children, as noted above, are 'among the most vulnerable [population groups] in terms of their exposure to explosive remnants of war.'<sup>105</sup>

Other groups of rightsholders mentioned in recommendations, though far less frequently, include the 'victims' of landmines and ERW (10%), IDPs (5%), and persons with disabilities (5%). The latter is perhaps surprising, and points to the need for more work to be done to raise awareness about the links between landmines and the rights of persons with disabilities.

In terms of IDPs, the vast majority of recommendations call for enhanced mine action as part of wider efforts to ensure the safe return of displaced persons to their places of origin. A few are more focused, however. For example, some call for mine risk education programmes for internally displaced families, 'prior to, during and after their return,' while others emphasise that, once IDP camps are closed, the displaced persons must not be resettled in places affected by landmines.



Jody Williams, 1997 Nobel Peace Prize co-Laureate and Ambassador at the International Campaign to Ban Landmines, speaks during the 4th session of the Human Rights Council in 2007- UN Photo/Jean-Marc Ferré

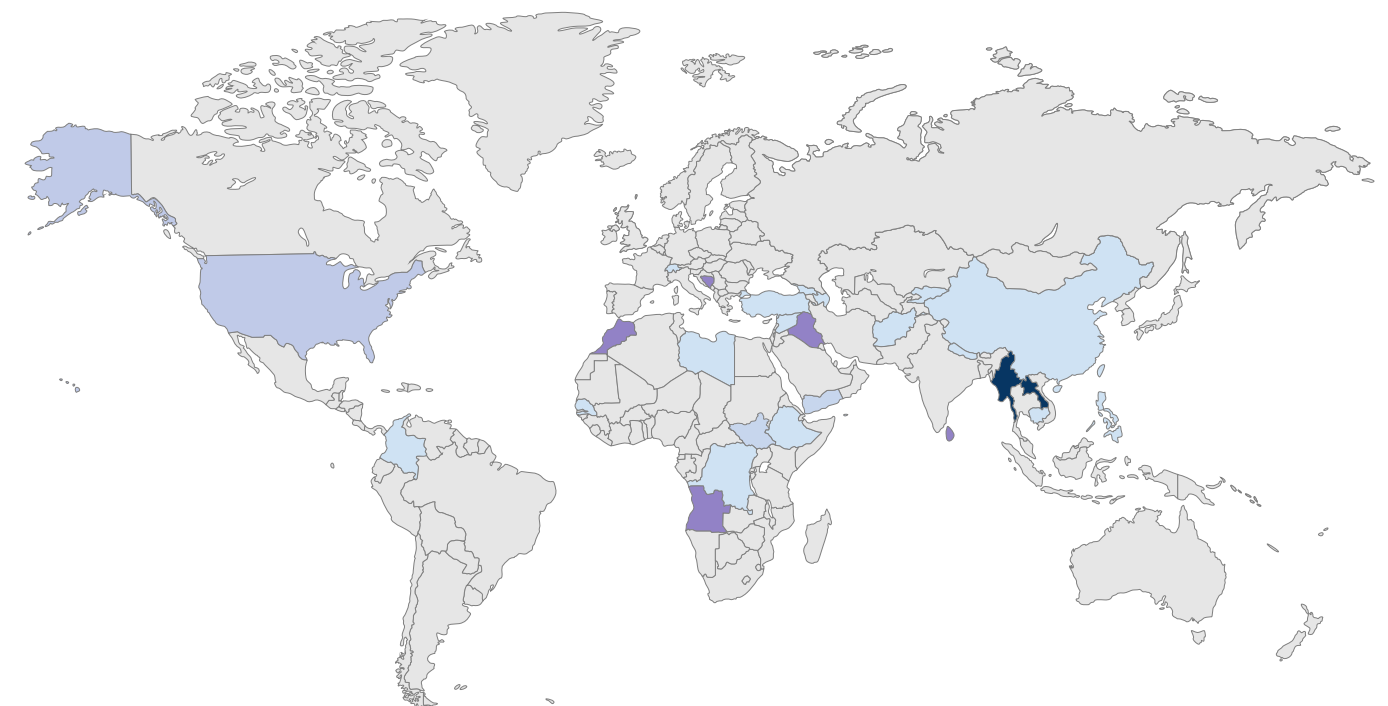
## States addressed by recommendations

Lastly, URG's analysis of countries that have received most recommendations shows that the mechanisms have, for the most part, addressed them to landmine-contaminated countries. The nine countries that have received the most recommendations from the three human rights mechanisms are also among the Landmine Monitor's list of most landmine-contaminated States, and it is only the tenth country in the list (the US, which received three recommendations) that is not contaminated.

It is, of course, to be expected that a majority of recommendations should be extended to those countries most affected by landmines. However, as repeatedly argued in this report, recommendations should also be directed towards other States, especially developed States, recalling their duty of international

cooperation in the context of human rights and landmines. At present, this is not the case. It is notable that, of the 31 UN member States that have received at least one landmine-related recommendation, only seven are not contaminated.

This point becomes especially clear when one considers which individual countries are receiving the most recommendations (i.e., developing countries, especially LDCs), and what those recommendations call for (i.e., resource-intensive demining programmes - 32% of all recommendations received, and victim support/rehabilitation programmes). The top receiving States include Myanmar (18 recommendations), Lao PDR (17), and Sri Lanka (11). Many of these countries are unable to fully implement such recommendations without international support.



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## 04

**HUMAN RIGHTS  
AND LANDMINES:  
CONCLUSIONS AND  
RECOMMENDATIONS**

As this report shows, significant progress has been made over recent decades, both in terms of the rigour and effectiveness of international instruments designed to tackle the scourge of landmines and ERWs, and (to a somewhat lesser degree) in terms of how the human rights of victims and affected communities, in conflict and post-conflict settings, are integrated into and help guide mine action.

That said, today, there remains a sizeable gap between international human rights and disarmament law, and between the international human rights and disarmament communities.

In the view of the Universal Rights Group (URG), closer engagement between the two would have numerous benefits.



First, the international human rights architecture can be instrumental in supplementing and complementing mine-specific legal frameworks and any gaps that remain in terms of implementation. As described above, States' human rights obligations are applicable regardless of whether or not they are party to a given arms treaty, and this opens a gateway for the human rights mechanisms to spotlight the impacts of landmines on specific human rights. The development of a human rights-based approach to landmine action and policy can thus act as nexus between States' obligations under specific mine treaties and States' human rights obligations. Further, it can be a gateway for increased rights protection among States that are not party to, say, the Mine Ban Treaty – which is the case for most of the States in which landmine use is registered each year. A rights-based approach can also act as a bridge to move away, as called for by the Secretary-General in his New Agenda for Peace, from an 'overly securitised and militarised approach' to peace, towards a 'human-centred disarmament,' one that is based on participation, transparency, and non-discrimination.<sup>106</sup>

Moreover, such a rights-based approach can contribute to strengthening the implementation of landmine/ERW obligations and human rights obligations, in a complementary and mutually reinforcing way. For example, recommendations from the human rights mechanisms can help strengthen the implementation of mine-specific obligations, such as under article 6 of the Ottawa Convention (international cooperation and assistance for care, rehabilitation, social and economic reintegration of victims). Conversely, enhancing implementation and compliance with mine treaty obligations can contribute to reinforcing the protection of human rights on the ground: for instance, strengthened implementation of obligations under article 5 of the Ottawa Convention (destruction of anti-personnel mines) or under article 6, can result in better reintegration and rehabilitation programmes for victims, better access to schools for children, and improved livelihoods for communities in mine-contaminated areas.

The further integration of human rights into mine action can also contribute to enhanced policy coherence, given the universal, inalienable, and indivisible nature of human rights. For example, increased attention from the international human rights system focused on the impacts of landmines can help align domestic policies such as national mine action plans or plans for assistance to victims, with the State's international human rights obligations. Furthermore, a rights-based approach can help identify gaps in domestic policy and action, for example, by highlighting the rights of certain population groups (e.g., IDPs, children, persons with disabilities). Some of the recommendations analysed for this report provide good examples of this, as they underscore the need to improve assistance and rehabilitation for particular victims of landmines, including for those in remote areas,<sup>107</sup> or urge States to consider 'the gender dimensions of the impact of unexploded ordnance on the rural population.'<sup>108</sup>

In a similar vein, a rights-based approach can help elevate the voices of victims and survivors of landmines, based on core human rights principles of participation, non-discrimination, and inclusion. In many cases, the populations most impacted by landmines belong to marginalised groups, or groups that are already vulnerable due to the intersections of poverty, conflict, and discrimination. In Tajikistan, for example, most landmine-affected populations are located in rural areas and already experience high rates of poverty.<sup>109</sup>

Moving from the general to the specific, a rights-based approach can also help elevate issues long neglected by instruments and processes on landmines, such as the environmental dimension. This omission can be effectively addressed by leveraging the right of affected populations to a clean, healthy, and sustainable environment. Indeed, there are considerable opportunities to do so, when one considers that, according to URG's analysis, no UN human rights recommendations have addressed the environmental or climate resilience dimensions of landmines and/or mine action.



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The international human rights architecture can be instrumental in supplementing mine-specific legal frameworks and any gaps that remain in the implementation.



A rights-based approach to landmines and mine action can also help bridge the disconnect that exists, to a certain extent, between the human rights and disarmament communities. Participants at the two policy dialogues held in preparation of this report, broadly agreed on the need for deeper engagement between them. An official from the UN Office for Disarmament Affairs (UNODA) interviewed for this report, for example, explained how the disarmament community could better leverage States' human rights obligations (e.g., under the CRPD) and the work of the human rights mechanisms to strengthen mine action in line with the Mine Ban Treaty and the Convention on Cluster Munitions (CCM), including in order to strengthen the implementation of victim assistance provisions under these and similar treaties.

This value has been recognised by the disarmament community. For example, at the 2009 Cartagena Summit, States parties to the Ottawa Convention agreed that the CRPD could help them pursue 'a more systematic, sustainable, gender sensitive and human rights-based approach, by bringing victim assistance into the broader context of policy and planning for persons with disabilities more generally.'<sup>110</sup>

As recognised above, there is already some level of engagement and dialogue between the two communities, especially at international level. For example, in 2023, the Chief of UNODA's office in Geneva provided a briefing to the Human Rights Council's Advisory Committee on the human rights implications of new and emerging technologies in the military domain (during which she said that engagement can help both communities 'holistically consider gaps in multilateral governance,')<sup>111</sup> while the Mine Ban Treaty's Implementation Support Unit (ISU) regularly works with the Special Rapporteur on the rights of persons with disabilities and the Committee on the Rights of Persons with Disabilities.<sup>112</sup> However, such linkages at the UN should be scaled-up. This will in turn percolate down to the national level, so that States, with UN support, can pursue effective mine action and

strengthen the enjoyment of human rights in ways that are complementary and mutually-reinforcing.

As another dimension of such a 'scaling up,' the two communities should also work together to promote a more holistic rights-based approach to mine action – focused on a wider range of affected rights, and a wider number of vulnerable groups. This is in-line with the work of the ISU, which has pushed for a wider understanding of victim assistance among State parties to Ottawa, and has helped States in providing that assistance, clarifying that it covers anyone that has suffered 'physical, emotional, and psychological injury, economic loss, or substantial impairment of their fundamental rights through acts or omissions related to the use of anti-personnel mines and other explosive ordnance.'<sup>113</sup> The international disarmament community more broadly, however, has traditionally maintained a heavy focus on one group: persons with disabilities. For example, three Global Conferences on Assistance to the Victims of Anti-Personnel Mines and Other Explosive Ordnance in a Disability Rights Context have been held over the past decade: in 2014 in Colombia, 2019 in Jordan, and 2023 in Cambodia. While this focus is clearly important, it represents a very narrow approach to leveraging States' human rights obligations to strengthen mine action and improve the situation of victims.

Finally, it is important to recognise that there are also risks inherent in bringing the human rights and disarmament communities together, and in leveraging States' human rights obligations to strengthen mine action, especially for victims and affected communities.

First, several States at the UN maintain a long-standing position of opposition to any efforts to connect or find synergies between different parts of the UN system – especially human rights and security/disarmament. If steps are to be taken at the Human Rights Council, for example, this helps explain why an inclusive, incremental, practical approach would work best. Second, as explained by several mine action

experts interviewed for this report, blanket references to human rights in the context of programmes on landmines and ERWs, especially in politically charged contexts (e.g., Syria), can become a 'slippery slope,' potentially jeopardising engagement on the part of the State. This again underscores the importance of taking a practical, rather than ideological approach to landmines and human rights – one focused on leveraging States' existing human rights obligations,

and their cooperation with the three main UN human rights mechanisms, to promote improved, victim-focused mine action at national level (States are more likely to accept and be willing to implement UN human rights recommendations, because they themselves have cooperated with the mechanisms and thus feel some sense of ownership of the process and its outcomes).



South Sudan celebrates International Day of Mine Awareness - Isaac Billy/UNMISS





Sahrawi Demining Team in Western Sahara - UN photo/Evan Schneider

## ■ Recommendations

In late 2024, State parties to the Mine Ban Treaty will come together in Cambodia at the Siem Reap-Angkor Summit on a Mine-Free World, to review the operation and status of the Convention. The meeting also marks 25 years since this landmark treaty's entry into force, and represents a critical staging post along the path set out in the Oslo Action Plan, allowing States to assess and measure progress towards securing a mine-free world by 2025.

While achieving such an ambitious target may remain a distant prospect, this should not detract from recognising the remarkable achievements over recent decades in developing an international legal architecture to mitigate and eventually eliminate the threat posed to civilians by landmines, cluster munitions, and similar explosive ordnance, and (in a complementary manner), in beginning to integrate a human rights-based, victim-centred, approach to disarmament in these areas.

Notwithstanding, it will be important, in the coming years, to scale up this integration, both in order to support the push for a mine-free world by presenting the human face of the problem, and in order to ensure that, in the meantime, the human rights of victims and affected communities are placed front and centre of mine action.

“ A rights-based approach to landmines and mine action can also help bridge the disconnect that exists, to a certain extent, between the human rights and disarmament communities.

## Bringing together the human rights and disarmament communities

Both as a means of achieving, and as an objective of, promoting a rights-based approach to mine action, it will be important to build further bridges between the international human rights and disarmament communities. This will allow experiences, knowledge, lessons learnt, and policy ideas to be shared, and to infuse more effective, victim-centred, mine action.

In general terms, there is insufficient connectivity between these two communities at present, though over the past year, in Geneva at least, important remedial steps have been taken. For example, during the first half of 2024, the Universal Rights Group (URG), has organised two policy dialogues with interested States (e.g., Kazakhstan, Croatia, Azerbaijan, Panama), NGOs (e.g., GICHD, International Campaign to Ban Landmines), and UN officials (e.g., from OHCHR and the ISU). During the second of these policy dialogues, in May 2024, the decision was taken to turn the group of participants at the dialogue into a nascent 'group of friends' on landmines and human rights, with participation from both the human rights and disarmament communities. Moreover, at the 55th session of the Council in March, URG, together with Kazakhstan, organised a side event on landmines and human rights, and building a rights-based approach to mine action. This was followed by a civil society joint statement – again, bringing together NGOs from both the human rights and disarmament worlds.

Yet, more needs to be done at international- and, especially, at national-levels, to bring together these two communities.



## Engagement of the Human Rights Council

The Human Rights Council should necessarily play a key role in promoting a rights-based approach to mine action. That role is three-fold. First, the Council is a very good 'convening' forum, a place to bring together representatives of the human rights and disarmament communities (see above). Second, the Council has a strong normative role to play in better understanding and clarifying the relationship between landmines and human rights: which rights are most affected, which groups are most affected and how are they affected differently; and how can States' international human rights obligations and commitments be leveraged to strengthen mine action, especially for victims and affected communities? Third, the Council has a proven track record in promoting the mainstreaming or 'uptake' of human rights-based approaches across other parts of the UN system (e.g., those dealing with climate change, environmental protection, digital technology, migration). The Council alone will not be able to solve the threats and challenges posed by landmines; but it can, and should, contribute to global solutions by understanding how human rights are impacted, and what human rights might 'bring to the table' (e.g., by promoting human-centric and victim-focused approaches), and by promoting the integration of that understanding into relevant disarmament fora.

To mobilise the OHCHR, Human Rights Council, and its machinery, to play these roles, supportive States should:

- Continue to support, and participate in, side events, to introduce and begin reflections on the topic.
- Deliver a joint statement further introducing the issue of landmines and human rights, explaining why it is important, showing which rights and which groups are most affected, and urging the Council to take further action.

- Draft and table a Council resolution on landmines and human rights, summarising existing understanding about the normative relationship between landmines and human rights; showing how human rights obligations and commitments can lead to better landmine laws, policies, and practices; underscoring the importance of a human-centric and victim-centred approach to mine action; emphasising the importance of connecting the human rights and landmine communities; and driving further (operational) steps forward.
- Regarding the latter point, the resolution might, for example, request an analytical report from the Office of the High Commissioner, further clarifying the normative relationship between landmines and human rights, and recommending further steps. These reports are usually written in consultation with all States, NGOs, and other relevant parts of the UN.
- Later, a further resolution might be envisaged to promote the uptake of the Council's work and ideas by disarmament policymakers, for example, by inviting the President of the Council to share relevant resolutions, OHCHR reports, outcomes of panel debates, etc. with State Parties of the APMBC, the CCM and the CCW.
- Other 'operational' options for this resolution could be to convene a panel debate on landmines and human rights, involving experts from the human rights and disarmament worlds, affected States, and the victims of landmines and/or their communities (such a panel discussion could follow the publication of OHCHR's report - mentioned above); call on relevant thematic Special Procedures mandates to focus more on the issue of landmines and ERW, in the context of their country missions and annual reports.



Women deminers carry their gear to their work sites in South Lebanon- Mariella Furrer/ CMC



- Such resolutions would also serve to remind all States to abide by their international human rights obligations and commitments when undertaking mine clearance and other mine actions, irrespective of whether or not they are party to the Mine Ban Convention, and, where appropriate, to respect their duty of international cooperation.

## Engagement with the human rights mechanisms

As reflected in part III of this report, the three main UN human rights mechanisms, the Treaty Bodies, Special Procedures, and UPR, have been seized by the issue of landmines, and their impact on human rights, especially of the most vulnerable (e.g., children, persons with disabilities). This has resulted in recommendations being issued to States on the subject. However, to-date, the level of that engagement has been modest, and has tended to be relatively limited in scope (e.g., recommendations calling on States to ratify the Mine Ban Treaty).

To scale-up and broaden this contribution in the future, it is recommended that:

- Supportive States (i.e., members of the group of friends) ask advance UPR questions to States-under-review (where that State is mine-affected, responsible for deployment of mines or supports mine actions), and extend recommendations to respect, protect, and promote human rights in mine actions.
- More members of relevant Treaty Bodies ask questions or, and extend relevant recommendations to, States parties that are contaminated by landmines.

- Relevant thematic Special Procedures mandates should include visits to mine-affected communities during their regular country missions (to relevant States), and should extend more recommendations on the subject of landmines and ERWs.
- More recommendations (extended by all three mechanisms) reference the duty of international cooperation, for example, in the context of calling for former parties to a conflict to share maps of the known locations of landmines, and, more broadly, cooperate on mine clearance, on providing information to communities and on demarcating/fencing mined areas.
- More recommendations (extended by all three mechanisms) are directed towards bilateral and multilateral development partners to help guide human rights-based programmes and projects on mine clearance/mine action.

Another possibility is to create an entirely new mechanism, specifically on the subject of landmines and human rights – e.g., a Special Rapporteur on the impact of landmines/ERWs on human rights. Such a mandate could focus on highlighting the plight of victims and affected communities, encouraging relevant States to adopt a rights-based approach to mine action, and promoting the rights to remedy and redress. It could conduct missions to post-conflict countries/regions, and encourage parties to cooperate to address the rights of victims and affected communities. Finally, such a mandate could help mainstream human rights within disarmament fora and processes. It is notable, for example, that the UN's new Mine Action Strategy, which entered into force in 2024, takes a very limited approach to integrating human rights into mine action (it merely includes, as an indicator, whether a State has acceded to the core international human rights instruments).

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Remedy shall be conceived as an integral element of the sustainable development agenda, whose function is not just corrective, but also serves a preventive and deterrent role.



Croatian and Serbian demining teams working together to clear landmines, 1996 - UN Photo/Eric Kanatstein



## ■ Redress and restoration of the rights of victims

As noted above, a key dimension of the UN human rights system's possible expanded work on landmines / ERWs, should be to highlight the situation of the victims of landmines, and promote their rights to remedy and redress.

While there are certain frameworks establishing obligations for victim assistance (e.g. under the Ottawa Convention and the CRPD), these are mostly geared towards socio-economic reintegration, and the physical and psychological care of victims. Therefore, these mechanisms are aimed at remedy, not redress.

Several models could be followed to establish solid redress schemes that contribute to addressing the rights of landmine victims, similar to mechanisms established for victims of torture, terrorism, or environmental damage. This approach is grounded upon States' duty to protect human rights, which encompasses prevention and mitigation of human rights violations, but also the duty to provide access to effective remedy. Remedy is thus closely linked to notions of prompt justice. In the context of landmines, the notion of 'justice delayed is justice denied'<sup>114</sup> is particularly relevant given that, as explained above, human rights violations linked to landmines may span decades. Moreover, as noted by the Eritrea–Ethiopia Claims Commission (EECC), created in 2000, there is an entitlement to compensation when there is enough evidence of damage caused by violations of international law and international humanitarian law, including the 1949 Geneva Conventions.<sup>115</sup> Furthermore, as noted by OHCHR – albeit while exploring the possibilities for remedy for harm caused by international development projects – remedy shall be conceived as an integral element of the sustainable development agenda, whose function is not just corrective, but also serves a preventive and deterrent role.<sup>116</sup> In the landmines context, the formalisation of remedy and redress schemes, paired with greater engagement with the

issue at multilateral fora, could contribute to fulfilling such a preventive role, by conveying a strong message that there are reputational and monetary liabilities linked to the use of landmines.

A first option would be the establishment of a Trust Fund, in the style of the UN Voluntary Fund for Victims of Torture or the Voluntary Trust Fund for Victims of Human Trafficking, which provide survivor-centric financial assistance to victims, in order to contribute to their medical and social rehabilitation, as well as legal aid and vocational training to promote their reintegration into society.

A good example of this can be found in the context of the EECC, which noted that Eritrea was liable for injuries caused by landmines and documented costs of care for IDPs unable to return to their homes, and that 'deaths and injuries caused by landmines justify compensation.'<sup>117</sup> As a result, the EECC awarded Ethiopia US\$ 1,500,000 for deaths and injuries caused by landmines.

Similarly, the UN Compensation Commission (UNCC), created in 1991 to process compensation claims following the losses and damage caused by Iraq's invasion and occupation of Kuwait, ordered Iraq to pay US\$ 52.4 billion in compensation through a Compensation Fund that included a percentage of Iraq's proceeds from its petroleum exports. Although the compensation initially sought by Kuwait, amounting to USD 696,165,032, was for the removal and disposal of ERWs, this model can still be useful for future mechanisms seeking compensation directly for victims. Eventually, the UNCC granted USD 681,055,719 for ERW removal and disposal.<sup>118</sup> Upon completion of Iraq's payments in 2022, the Security Council recognised that Iraq had fulfilled its compensation obligations for direct loss and damage, 'including environmental damage and the depletion of natural resources.'<sup>119</sup>

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Better opportunities and improved living conditions can be a major factor in prevention of further conflict, as communities have their basic needs covered, there is greater community safety and reduced violence rates.





By establishing such an entity, the international community would not only be sending a strong message that there is accountability towards landmine victims and survivors, but it would be providing direct support towards their and their communities' recovery, thereby enhancing sustainable development, peacebuilding efforts and post-conflict reconstruction.<sup>120</sup> Moreover, this type of Fund would allow for a greater distribution of financial assistance, as currently a small number of countries are the recipients of most international funding (in 2022, the top five recipient States – Ukraine, Iraq, Afghanistan, Yemen, and Lao PDR – received 54% of the total international mine action financial support, with most of that funding going to mine clearance operations).<sup>121</sup>

Another option could be to establish a mechanism that followed the rationale behind the loss and damage fund agreed upon at the COP27 in Egypt in 2022, namely, the 'polluter pays' principle, translated in this context into the liability of States responsible for planting mines in restoring the rights of victims and affected communities. This principle, which has been widely recognised across different environmental texts (Principles 13 and 16 of the 1992 Rio Declaration on Environment and Development; Article 7 of the 1992 Helsinki Convention on the Protection and Use of Transboundary Watercourses and International Lakes; or the 2001 Stockholm Convention on Persistent Organic Pollutants), appeals in turn to the duty of international cooperation as explained in previous sections. However, given the limitations in ascertaining responsibility for the deployment of landmines, such a mechanism would be most suitable to contexts of mine contamination across borders. In light of such limitations, and similar to its environmental counterpart, a loss and damage-like fund for landmine victims could be focused on the provision of financial support, technical assistance and capacity building, and the transfer of demining technology and knowledge from the main manufacturing States.

Additionally, the loss and damage model could also be applied towards compensation for environmental damage caused by landmines. A clear example that could be followed is that of the UNCC. The UNCC framework allowed for the payment of compensation to Kuwait to the sum of US\$ 5.26 billion for environmental assessment, remediation, restoration, and response activities, including the clearance and survey of unexploded ordnance.<sup>122</sup> Similarly, the EECC accepted claims from the parties regarding environmental damage caused in the conflict, although such claims were eventually dismissed due to lack of supporting evidence and clarifications from the claimants.<sup>123</sup>

### ■ Linking mine action and the Sustainable Development Agenda

Another avenue that merits particular attention is the connection between mine action and the sustainable development agenda, given the interlinkages between mine contamination and climate change, post-conflict reconstruction and peacebuilding and peacekeeping efforts.

As has been noted above, increasing climate change-related phenomena are resulting in new risks in contaminated areas as landmines are resurfacing through floods and landslides, or exploding amid extreme temperatures and fires. These weather phenomena can be particularly devastating considering that approximately 60 per cent of the twenty countries most vulnerable to climate change suffer from explosive ordnance contamination.<sup>124</sup> In this regard, any step to address the impacts of landmines within the human rights space should also tackle the connections between explosive ordnance, climate resilience, and the right to a clean, healthy and sustainable environment, both in terms of the impact of ERWs on the environment, as well as regarding clearance and removal operations, particularly when these are conducted at large scale.

In this regard, recent normative developments, such as the review of the International Mine Action Standard (IMAS) 07.13 on Environmental Management in Mine Action,<sup>125</sup> underscore the need for better understanding and clarification of the interconnections between climate change and mine action.

Furthermore, reinforcing the linkages between mine action and environmental rights can also be a way to restore the rights of landmine victims, as it can lead to the activation of human rights mechanisms for environmental protection, most notably litigation and compensation. In this regard, the abovementioned UNCC played a major role in pinpointing the environmental damage caused by conflict as an offence meriting compensation. The Commission recognised that landmines can have severe 'deleterious impacts on the environment,' including wildlife deaths and injuries, degradation of soils, deforestation, water pollution, and alterations in the populations of different species, resulting in changes in food chains.<sup>126</sup> Faced with such impacts, communities in contaminated areas could turn to courts and demand that the State take action to uphold their right to a clean, healthy, and sustainable environment, by clearing fields, rivers, and other surrounding areas. Among several examples supporting this argument are the direct impacts of land release over strengthened climate resilience shown in places like Colombia, Kosovo, and Zimbabwe, where mine action projects have led to the restoration of habitats, thereby enabling carbon sequestration and rainfall and flooding regulation.<sup>127</sup>

The growing practice of climate litigation and recent precedents in different countries show that there is room for enhancing and restoring the rights of victims by appealing to the State's responsibility to ensure a healthy environment. For instance, in the so-called 'Ogoni case' in Nigeria, the African Commission on Human and Peoples' Rights concluded that the Government had violated the rights to life, health, and healthy environment, among others, as it had failed

to prevent environmental pollution and degradation caused by the disposal of hazardous waste and oil leaks into the environment.<sup>128</sup> This case, although not related to landmines and ERW, could serve as a model for further litigation addressing specifically the contamination caused by landmines.

Among the most innovative approaches that have been made with regards to mine action and sustainable development, is the proposal to turn demining into a new 18th SDG, based on the premise that sustainable development is incompatible with mine contamination.<sup>129</sup> The idea has been tested and adapted to local contexts by countries including Azerbaijan, Cambodia, and Lao PDR, where the Government has developed its own SDG18 on 'Lives safe from UXO.' This latter project was conducted over four years with US\$ 25 million in support from UNDP.<sup>130</sup>

Lastly, strengthening the links between the sustainable development agenda and mine action can also be a key contributor to prevention efforts. Mine action conducted in a manner that empowers local communities to take ownership over their territory, resources, and institutions, particularly after long periods of conflict and/or displacement, can be an effective way of increasing the resilience of local communities in mine-contaminated areas vis-à-vis both conflict and climate change. Mine action can bring about increased food security and restored livelihoods, new investments in retail tourism, and housing, as shown by the San Luis community in Colombia, an area that remained contaminated and for decades was considered unsafe to live and work in. Better opportunities and improved living conditions can be a major factor in prevention of further conflict, as communities have their basic needs covered, there is greater community safety, and reduced violence rates. Mine action therefore not only delivers on SDG 16 by reducing violence and related deaths, but also contributes to improved community relations, stronger institutions, and sustainable peace and justice processes.



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RESTORING VICTIMS' RIGHTS, PROMOTING  
SUSTAINABLE DEVELOPMENT AND PEACE

JUNE 2024



working together to protect universal human rights



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